

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERIC WOODBERRY,

Defendant.

No. CR18-049RAJ

ORDER ON DEFENDANT'S
MOTIONS IN LIMINE

THIS MATTER has come before the Court upon Defendant Eric Woodberry's Motions in Limine (Dkt. #78). Having considered the motions, the government's response (Dkt. #89), and the files and pleadings herein, the Court **GRANTS** in part and **DENIES** in part the defendant's motions. Unless stated otherwise, the Court's rulings apply equally to the defendants and each party is expected to advise their clients or witnesses of the Court's rulings.

1. Witnesses should be excluded from the courtroom until their testimony has been completed.

This motion is **GRANTED**. The government's designated case agent, ATF Special Agent Michael Collier, is permitted to remain at the government's counsel table throughout the trial.

- 1 2. Witnesses should be ordered not to discuss their testimony or other matters
2 related to the case with other witnesses.

3 The government has no objection, therefore the motion is **GRANTED.**

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5 3. References by witnesses or arguments by counsel regarding the defendant's
6 non-testimonial demeanor should be prohibited.

7 The government concedes that it will not pursue questions or argument
8 concerning a defendant's non-testimonial demeanor, therefore the motion is
9 **GRANTED.**

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11 4. Testimony directly or indirectly implying a personal belief in the defendant's
12 guilt should be excluded, and arguments that state or imply a personal belief in
13 the defendant's guilt should be prohibited.

14 The government concedes that it will not pursue questioning any witness
15 whether he or she personally believes a witness is guilty or from making
16 references or argument on the same, therefore the motion is **GRANTED.**

- 17 5. Testimony and arguments regarding the defendant's failure to produce
18 evidence should be prohibited.

19 The government concedes that it will not ask questions or make argument
20 concerning a defendant's failure to produce evidence, therefore the motion is
21 **GRANTED.**

- 1 6. Questions concerning “the course of the investigation” that elicit irrelevant
2 evidence and inadmissible hearsay.

3 The Court will not rule in a vacuum on a motion that seeks to preclude
4 testimony in such a vague fashion. Counsel is free to object to any question he
5 perceives to be inappropriate at the time it is asked, therefore this motion is
6 **DENIED.**

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8 7. Testimony regarding gangs or gang affiliations.

9 The government concedes it will not seek to ask questions or present argument
10 or references to gangs or gang affiliation, therefore this motion is **GRANTED.**

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12 8. Jenks Act Discovery.

13 The government has acknowledged its obligation under *Jencks* and Rule 26.2
14 and represented it has produced most of the potential *Jencks* information or
15 will certainly produce the same prior to the commencement of trial. The
16 Court will hold the government to its word, therefore, the motion is
17 **GRANTED.**

- 18 9. Notice of Next Days’ Witnesses.

19 The government concedes it will provide notice of the next days’ witnesses.
20 This requirement applies to both parties. Therefore, the motion is **GRANTED.**

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2 10. Disclosure of Exhibits and Slideshows to be used in Opening and Closing.

3 The Court typically addresses this issue during the pretrial conference. The
4 government does not oppose the motion but they do challenge the timing of the
5 disclosures. The Court will require that both parties exchange the listing of
6 exhibits and any slideshows to be used in opening statements by noon on the
7 Friday preceding the first day of trial. The Court reserves ruling on the timing
8 of the same for closing arguments. Therefore, the motion is **GRANTED**.

9 11. Additional peremptory challenges.

10 The government has no objection to allowing each defendant to have seven (7)
11 peremptory challenges. This acknowledgment is reasonable. Therefore the
12 defendant's request for additional peremptory challenges is **GRANTED**.

13 12. Motion requesting 30 minutes of *voir dire* per party.

14 The government agrees with this request. Therefore, the motion is
15 **GRANTED**.

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13. Motion requiring each party to provide notice of the Court's rulings to potential witnesses.

The government agrees with this motion, therefore this motion is **GRANTED**.

DATED this 11th day of April, 2019.

Richard A. Jones

The Honorable Richard A. Jones
United States District Judge